

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JUL 13 2009

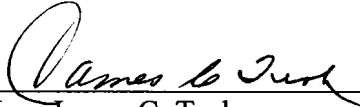
JOHN F. CORCORAN, CLERK  
BY: *J. C. Turk*  
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WILBERT HERMAN BROWN,	)	Criminal action No: 7:06-cr-00098
Petitioner,	)	
	)	<u>FINAL ORDER ADOPTING</u>
v.	)	<u>REPORT AND RECOMMENDATION</u>
	)	
UNITED STATES OF AMERICA,	)	By: James C. Turk
Respondent.	)	Senior United States District Judge

Wilbert Herman Brown brings this action under 28 U.S.C. § 2255, alleging that his guilty plea was not knowing or voluntary and his counsel provided constitutionally ineffective assistance. By Order entered January 30, 2009 (Dkt. No. 639), the court ordered an evidentiary hearing and referred the matter to United States Magistrate Judge Michael F. Urbanski for report and recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). An evidentiary hearing was held on June 8, 2009, and the Magistrate Judge filed a Report and Recommendation finding that Brown knowingly and voluntarily entered his guilty plea, thereby barring a claim on collateral review that he was unlawfully sentenced to a period longer than five years, and there was no evidence of constitutionally defective legal assistance. Neither party filed objections. Having reviewed the Magistrate Judge's Report and Recommendation and pertinent portions of the record, the court agrees with the Magistrate Judge's recommendation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's Report and Recommendation (Dkt. No. 651) is **ADOPTED** in its entirety; Respondent's motion to dismiss (Dkt. No. 633) is **GRANTED**; Brown's petition (Dkt. No. 625) is **DISMISSED**; and this matter is **STRICKEN** from the active docket of the court. The Clerk of the Court is directed to send a certified copy of this Order to Petitioner and counsel of record for the Respondent.

ENTER: This 13<sup>th</sup> day of July, 2009.

  
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Hon. James C. Turk  
Senior United States District Judge